

ROSS WEAVER

IBLA 80-462

Decided July 28, 1980

Appeal from decision of the Colorado State Office, Bureau of Land Management, returning, unrecorded, certain instruments relating to unpatented placer mining claims. CMC 154307.

Affirmed.

1. Notice: Generally--Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

2. Federal Land Policy and Management Act of 1976: Generally--  
Federal Land Policy and Management Act of 1976: Recordation of  
Mining Claims and Abandonment--Mining Claims: Recordation

Under sec. 314 of the Federal Land Policy and Management Act of Oct. 21, 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location with the proper Bureau of Land Management Office on or before Oct. 22, 1979. These requirements are mandatory and failure to comply is deemed conclusively to constitute an abandonment of the claim by the owner and renders the claim void.

APPEARANCES: Ross Weaver, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Ross Weaver appeals the decision dated February 1, 1980, whereby the Colorado State Office, Bureau of Land Management (BLM), returned

certain documents expressing a notice of intent to hold the Effie, Joe, and Hope unpatented placer mining claims and the tendered service fee of \$15. The submission had been made October 22, 1979, pursuant to section 314, Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976). The documents and service fee were returned, and not accepted for recordation, because no copy of the official record of the notice of location of any of these claims had ever been filed with BLM.

Copies of the location notices were submitted to BLM on February 29, 1980. They show that the Effie placer mining claim was located March 18, 1961, by E. M. Murdock; the Hope placer mining claim was located June 22, 1964, by Ross Weaver; and the Joe placer mining claim was located September 15, 1961, by Thomas A. Stroud.

Appellant asserts he submitted a notice of intent to hold the three unpatented placer mining claims, referring to the book and page of recordation of the claims in the records of Mesa County, Colorado, maps showing the location on the ground, and a service fee of \$15. He contends that information from BLM led him to believe he would be given 30 days following his submission to correct any deficiencies therein, and that he had had only a limited period of time before the filing deadline of October 22, 1979, to furnish the information.

[1] All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); M. E. Rogers, 47 IBLA 196 (1980). It was incumbent upon appellant to comply with the pertinent regulations, and he may not place the burden of his noncompliance upon BLM.

[2] The owner of an unpatented mining claim located prior to October 21, 1976, had until October 22, 1979, to record the location with BLM and to provide certain ancillary information. Section 314(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(b) (1976). The pertinent regulations are 43 CFR 3833.1-2 and 43 CFR 3833.2-1. Recordation is effected only by filing a copy of the official record of the notice or certificate of location, filed under state law, with the proper BLM office. Filing with BLM means being received and date stamped. 43 CFR 3833.1 2(a). Failure to comply with the regulations governing recordation of information relating to unpatented mining claims must result in a conclusive finding that the claim has been abandoned, and that it is void. Section 314(c), FLPMA, 43 U.S.C. § 1744(c) (1976); M. E. Rogers, *supra*; Joe B. Cashman, 43 IBLA 239 (1979); Walter T. Paul, 43 IBLA 119 (1979). As appellant herein did not comply with the pertinent statutory requirements in a timely manner, the Effie, Joe, and Hope placer mining claims are void.

This decision is without prejudice to the right of appellant to relocate the claims, subject to intervening rights of third parties, and if the lands continue to be open to mining location.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Joseph W. Goss  
Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

